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# H. R. 4034

[Report No. 96-200]

To provide for continuation of authority to regulate exports, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

MAY 10, 1979

Mr. BINGHAM (for himself, Mr. ZABLOCKI, Mr. FASCELL, Mr. DIGGS, Mr. ROSENTHAL, Mr. YATRON, Mrs. COLLINS of Illinois, Mr. SOLARZ, Mr. BONKER, Mr. PEASE, Mr. MICA, Mr. BARNES, Mr. WOLPE, Mr. BOWEN, Mr. FITHIAN, Mr. FINDLEY, Mr. BUCHANAN, Mr. WINN, Mr. GILMAN, Mr. LAGOMARSINO, and Mrs. FENWICK) introduced the following bill; which was referred to the Committee on Foreign Affairs

MAY 15, 1979

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## A BILL

To provide for continuation of authority to regulate exports, and for other purposes.

- 1      *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

1           **TITLE I—EXPORT ADMINISTRATION**

2           **SHORT TITLE**

3       **SECTION 101.** This title may be cited as the "Export  
4 Administration Act Amendments of 1979".

5           **FINDINGS**

6       **SEC. 102.** Section 2 of the Export Administration Act  
7 of 1969 (50 U.S.C. App. 2401) is amended to read as  
8 follows:

9           **"FINDINGS**

10       **"SEC. 2.** The Congress makes the following findings:

11           **"(1)** Exports are important to the economic well-  
12 being of the United States.

13           **"(2)** A large United States trade deficit weakens  
14 the value of the United States dollar, intensifies infla-  
15 tionary pressures in the domestic economy, and height-  
16 ens instability in the world economy.

17           **"(3)** Poor export performance is an important  
18 factor contributing to a United States trade deficit.

19           **"(4)** It is important for the national interest of the  
20 United States that both the private sector and the Fed-  
21 eral Government place a high priority on exports,  
22 which would strengthen the Nation's economy.

23           **"(5)** The restriction of exports from the United  
24 States can have serious adverse effects on the balance  
25 of payments and on domestic employment, particularly

1       when restrictions applied by the United States are  
2       more extensive than those imposed by other countries.

3           "(6) The uncertainty of policy toward certain  
4       categories of exports has curtailed the efforts of Ameri-  
5       can business in those categories to the detriment of the  
6       overall attempt to improve the trade balance of the  
7       United States.

8           "(7) The availability of certain materials at home  
9       and abroad varies so that the quantity and composition  
10      of United States exports and their distribution among  
11      importing countries may affect the welfare of the do-  
12      mestic economy and may have an important bearing  
13      upon fulfillment of the foreign policy of the United  
14      States.

15           "(8) Unreasonable restrictions on access to world  
16      supplies can cause worldwide political and economic in-  
17      stability, interfere with free international trade, and  
18      retard the growth and development of nations.

19           "(9) The export of goods or technology without  
20      regard to whether such export makes a significant con-  
21      tribution to the military potential of individual coun-  
22      tries may adversely affect the national security of the  
23      United States.

24           "(10) It is important that the administration of  
25      export controls imposed for national security purposes

1 give special emphasis to the need to control exports of  
2 technology (and goods which contribute significantly to  
3 the transfer of such technology) which could make a  
4 significant contribution to the military potential of any  
5 country or combinations of countries which would be  
6 detrimental to the national security of the United  
7 States.”.

POLICY

9 SEC. 103. (a) Section 3 of the Export Administration  
10 Act of 1969 (50 U.S.C. App. 2402) is amended by amending  
11 paragraph (2) to read as follows:

12        "(2) It is the policy of the United States to use export  
13 controls to the extent necessary (A) to restrict the export of  
14 goods and technology which would make a significant contri-  
15 bution to the military potential of any country or combination  
16 of countries which would prove detrimental to the national  
17 security of the United States; (B) to restrict the export of  
18 goods and technology where necessary to further signifi-  
19 cantly the foreign policy of the United States or to fulfill its  
20 international responsibilities; and (C) to restrict the export of  
21 goods where necessary to protect the domestic economy from  
22 the excessive drain of scarce materials and to reduce the seri-  
23 ous inflationary impact of foreign demand.".

24 (b) Such section is further amended—

1                 (1) in paragraph (5) by striking out "articles, ma-  
2                 terials, supplies, or information" and inserting in lieu  
3                 thereof "goods, technology, or other information";

4                 (2) in paragraph (6) by striking out "articles, ma-  
5                 terials, or supplies, including technical data or other  
6                 information," and inserting in lieu thereof "goods,  
7                 technology, or other information"; and

8                 (3) by adding at the end thereof the following new  
9                 paragraphs:

10                 "(9) It is the policy of the United States to cooperate  
11                 with other nations with which the United States has defense  
12                 treaty commitments in restricting the export of goods and  
13                 technology which would make a significant contribution to  
14                 the military potential of any country or combination of coun-  
15                 tries, which would prove detrimental to the security of the  
16                 United States and of those countries with which the United  
17                 States has defense treaty commitments.

18                 "(10) It is the policy of the United States that export  
19                 trade by United States citizens be given a high priority and  
20                 not be controlled except when such controls (A) are essential  
21                 to achieve fundamental national security, foreign policy, or  
22                 short supply objectives, (B) will clearly achieve such objec-  
23                 tives, and (C) are administered consistent with basic stand-  
24                 ards of due process. It is also the policy of the United States  
25                 that such controls shall not be retained unless their efficacy is

1 annually established in detailed reports available to both the  
2 Congress and to the public, to the maximum extent consist-  
3 ent with the national security and foreign policy of the  
4 United States.”.

5           **EXPORT LICENSES; TYPES OF CONTROLS**

6        SEC. 104. (a) The Export Administration Act of 1969 is  
7 amended—

- 8           (1) by redesignating section 4 as section 7;  
9           (2) by repealing sections 5 and 9;  
10          (3) by redesignating sections 6, 7, 8, 10, 11, 12,  
11          13, 14, and 15 as sections 11, 12, 13, 14, 16, 17, 18,  
12          19, and 20, respectively; and  
13          (4) by redesignating sections 4A and 4B as sec-  
14          tions 8 and 9, respectively.

15        (b) The Export Administration Act of 1969 is amended  
16 by adding after section 3 the following new sections:

17           “**EXPORT LICENSES; COMMODITY CONTROL LIST;**

18           **LIMITATION ON CONTROLLING EXPORTS**

19        “**SEC. 4. (a) TYPES OF LICENSES.**—The Secretary  
20 may, in accordance with the provisions of this Act, issue any  
21 of the following export licenses:

22           “(1) A validated license, which shall be a docu-  
23          ment issued pursuant to an application by an exporter  
24          authorizing a specific export or, under procedures es-

1       tablished by the Secretary, a group of exports, to any  
2       destination.

3           “(2) A qualified general license, which shall be a  
4       document issued pursuant to an application by the ex-  
5       porter authorizing the export to any destination, with-  
6       out specific application by the exporter for each such  
7       export, of a category of goods or technology, under  
8       such conditions as may be imposed by the Secretary.

9           “(3) A general license, which shall be a standing  
10      authorization to export, without application by the ex-  
11      porter, a category of goods or technology, subject to  
12      such conditions as may be set forth in the license.

13          “(4) Such other licenses, consistent with this sub-  
14      section and this Act, as the Secretary considers neces-  
15      sary for the effective and efficient implementation of  
16      this Act.

17          “(b) COMMODITY CONTROL LIST.—The Secretary shall  
18      establish and maintain a list (hereinafter in this Act referred  
19      to as the ‘commodity control list’) consisting of any goods or  
20      technology subject to export controls under this Act.

21          “(c) RIGHT OF EXPORT.—No authority or permission  
22      to export may be required under this Act, or under any rules  
23      or regulations issued under this Act, except to carry out the  
24      policies set forth in section 3 of this Act.

## 1            "NATIONAL SECURITY CONTROLS

2        "SEC. 5. (a) AUTHORITY.—(1) In order to carry out the  
3 policy set forth in section 3(2)(A) of this Act, the President  
4 may, in accordance with the provisions of this section, pro-  
5 hibit or curtail the export of any goods or technology subject  
6 to the jurisdiction of the United States or exported by any  
7 person subject to the jurisdiction of the United States. The  
8 authority contained in this subsection shall be exercised by  
9 the Secretary, in consultation with the Secretary of Defense,  
10 and such other departments and agencies as the Secretary  
11 considers appropriate, and shall be implemented by means of  
12 export licenses described in section 4(a) of this Act.

13        "(2)(A) Whenever the Secretary makes any revision  
14 with respect to any goods or technology, or with respect to  
15 the countries or destinations, affected by export controls im-  
16 posed under this subsection, the Secretary shall publish in the  
17 Federal Register a notice of such revision and shall specify in  
18 such notice that the revision relates to controls imposed  
19 under the authority contained in this section.

20        "(B) Whenever the Secretary denies any export license  
21 under this subsection, the Secretary shall specify in the  
22 notice to the applicant of the denial of such license that the  
23 license was denied under the authority contained in this  
24 section.

1        "(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In  
2 administering export controls under this section, United  
3 States policy toward individual countries shall not be deter-  
4 mined exclusively on the basis of a country's Communist or  
5 non-Communist status, but shall take into account such fac-  
6 tors as the country's present and potential relationship to the  
7 United States, its present and potential relationship to coun-  
8 tries friendly or hostile to the United States, its ability and  
9 willingness to control retransfers of United States exports in  
10 accordance with United States policy, and such other factors  
11 as the President may consider appropriate. The President  
12 shall periodically review United States policy toward individ-  
13 ual countries to determine whether such policy is appropriate  
14 in light of factors specified in the preceding sentence.

15        "(c) CONTROL LIST.—(1) The Secretary shall establish  
16 and maintain, as part of the commodity control list, a list of  
17 all goods and technology subject to export controls under this  
18 section. Such goods and technology shall be clearly identified  
19 as being subject to controls under this section.

20        "(2) The Secretary of Defense and other appropriate de-  
21 partments and agencies shall identify goods and technology  
22 for inclusion on the list referred to in paragraph (1). Those  
23 items which the Secretary and the Secretary of Defense  
24 concur shall be subject to export controls under this section  
25 shall comprise such list. If the Secretary and the Secretary of

1 Defense are unable to concur on such items, the matter shall  
2 be referred to the President for resolution.

3        "(3) The Secretary shall issue regulations providing for  
4 continuous review of the list established pursuant to this sub-  
5 section in order to carry out the policy set forth in section  
6 3(2)(A) and the provisions of this section, and for the prompt  
7 issuance of such revisions of the list as may be necessary.  
8 Such regulations shall provide interested Government agen-  
9 cies and other affected or potentially affected parties with an  
10 opportunity, during such review, to submit written data,  
11 views, or arguments with or without oral presentation. Such  
12 regulations shall further provide that, as part of such review,  
13 an assessment be made of the availability from sources out-  
14 side the United States of goods and technology comparable to  
15 those controlled for export from the United States under this  
16 section.

17        "(d) MILITARY CRITICAL TECHNOLOGIES.—(1) The  
18 Congress finds that the national interest requires that export  
19 controls under this section be focused primarily on military  
20 critical technologies, and that export controls under this sec-  
21 tion be removed insofar as possible from goods the export of  
22 which would not transfer military critical technologies to  
23 countries to which exports are controlled under this section.

1       “(2) The Secretary of Defense shall develop a list of  
2 military critical technologies. In developing such list, primary  
3 emphasis shall be given to—

4             “(A) arrays of design and manufacturing know-  
5 how;

6             “(B) keystone manufacturing, inspection, and test  
7 equipment; and

8             “(C) goods accompanied by sophisticated oper-  
9 ation, application, or maintenance know-how,  
10 which are not possessed by countries to which exports are  
11 controlled under this section and which, if exported, would  
12 permit a major advance in a weapons system of any such  
13 country.

14       “(3) The list referred to in paragraph (2) shall—

15             “(A) be sufficiently specific to guide the determi-  
16 nations of any official exercising export licensing re-  
17 sponsibilities under this Act; and

18             “(B) provide for the removal of export controls  
19 under this section from goods the export of which  
20 would not transfer military critical technology to coun-  
21 tries to which exports are controlled under this section,  
22 except for goods with intrinsic military utility.

23       “(4) The list of military critical technologies developed  
24 by the Secretary of Defense pursuant to paragraph (2) shall

1 become a part of the commodity control list subject to the  
2 provisions of subsection (c) of this section.

3        "(5) The Secretary of Defense shall report annually to  
4 the Congress on actions taken to carry out this subsection.

5        "(e) EXPORT LICENSES.—(1) The Congress finds that  
6 the effectiveness and efficiency of the process of making  
7 export licensing determinations under this section is severely  
8 hampered by the large volume of validated export license  
9 applications required to be submitted under this Act. Ac-  
10 cordingly, it is the intent of Congress in this subsection to  
11 encourage the use of a qualified general license, in lieu of a  
12 validated license, to the maximum extent practicable, consist-  
13 ent with the national security of the United States.

14        "(2) To the maximum extent practicable, consistent  
15 with the national security of the United States, the Secretary  
16 shall require a validated license under this section for the  
17 export of goods or technology only if—

18            "(A) the export of such goods or technology is re-  
19 stricted pursuant to a multilateral agreement, formal or  
20 informal, to which the United States is a party and,  
21 under the terms of such multilateral agreement, such  
22 export requires the specific approval of the parties to  
23 such multilateral agreement;

1           “(B) with respect to such goods or technology,  
2       other nations do not possess capabilities comparable to  
3       those possessed by the United States; or

4           “(C) the United States is seeking the agreement  
5       of other suppliers to apply comparable controls to such  
6       goods or technology and, in the judgment of the Secre-  
7       tary, United States export controls on such goods or  
8       technology, by means of such license, are necessary  
9       pending the conclusion of such agreement.

10          “(3) To the maximum extent practicable, consistent  
11       with the national security of the United States, the Secretary  
12       shall require a qualified general license, in lieu of a validated  
13       license, under this section for the export of goods or technol-  
14       ogy if the export of such goods or technology is restricted  
15       pursuant to a multilateral agreement, formal or informal, to  
16       which the United States is a party, but such export does not  
17       require the specific approval of the parties to such multi-  
18       lateral agreement.

19          “(f) FOREIGN AVAILABILITY.—(1) The Secretary, in  
20       consultation with appropriate Government agencies and with  
21       appropriate technical advisory committees established pursu-  
22       ant to subsection (h) of this section, shall review, on a con-  
23       tinuing basis, the availability, to countries to which exports  
24       are controlled under this section, from sources outside the  
25       United States, including countries which participate with the

1 United States in multilateral export controls, of any goods or  
2 technology the export of which requires a validated license  
3 under this section. In any case in which the Secretary deter-  
4 mines, in accordance with procedures and criteria which the  
5 Secretary shall by regulation establish, that any such goods  
6 or technology are available in fact to such destinations from  
7 such sources in sufficient quantity and of sufficient quality so  
8 that the requirement of a validated license for the export of  
9 such goods or technology is or would be ineffective in achiev-  
10 ing the purpose set forth in subsection (a) of this section, the  
11 Secretary may not, after the determination is made, require a  
12 validated license for the export of such goods or technology  
13 during the period of such foreign availability, unless the  
14 President determines that the absence of export controls  
15 under this section would prove detrimental to the national  
16 security of the United States. In any case in which the Presi-  
17 dent determines that export controls under this section must  
18 be maintained notwithstanding foreign availability, the Secre-  
19 tary shall publish that determination together with a concise  
20 statement of its basis, and the estimated economic impact of  
21 the decision.

22        "(2) The Secretary shall approve any application for a  
23 validated license which is required under this section for the  
24 export of any goods or technology to a particular country and  
25 which meets all other requirements for such an application, if

1 the Secretary determines that such goods or technology will,  
2 if the license is denied, be available in fact to such country  
3 from sources outside the United States, including countries  
4 which participate with the United States in multilateral  
5 export controls, in sufficient quantity and of sufficient quality  
6 so that denial of the license would be ineffective in achieving  
7 the purpose set forth in subsection (a) of this section, subject  
8 to the exception set forth in paragraph (1) of this subsection.  
9 In any case in which the Secretary makes a determination of  
10 foreign availability under this paragraph with respect to any  
11 goods or technology, the Secretary shall determine whether a  
12 determination under paragraph (1) with respect to such goods  
13 or technology is warranted.

14       “(3) Whenever the Secretary of State, in consultation  
15 with the Secretary, has reason to believe that the availability  
16 of any goods or technology from sources outside the United  
17 States can be prevented or eliminated by means of negotia-  
18 tions with other countries, the Secretary of State shall under-  
19 take such negotiations. The Secretary shall not make any  
20 determination under this subsection with respect to such  
21 goods or technology until the Secretary of State has had a  
22 reasonable amount of time to conclude such negotiations.

23       “(4) In order to further effectuate the policies set forth  
24 in this paragraph, the Secretary shall establish, within the  
25 Office of Export Administration of the Department of Com-

1merce, a capability to monitor and gather information with  
2respect to the foreign availability of any goods or technology  
3subject to export controls under this section. The Secretary  
4shall include a detailed statement with respect to actions  
5taken in compliance with the provisions of this paragraph in  
6each report to the Congress made pursuant to section 14 of  
7this Act.

8       “(g) INDEXING.—In order to ensure that requirements  
9 for validated licenses and qualified general licenses are peri-  
10 odically removed as goods or technology subject to such re-  
11 quirements become obsolete with respect to the national se-  
12 curity of the United States, regulations issued by the Secre-  
13 tary may, where appropriate, provide for annual increases in  
14 the performance levels of goods or technology subject to any  
15 such licensing requirement. Any such goods or technology  
16 which no longer meet the performance levels established by  
17 the latest such increase shall be removed from the list estab-  
18 lished pursuant to subsection (c) of this section unless, under  
19 such exceptions and under such procedures as the Secretary  
20 shall prescribe, any other Government agency objects to such  
21 removal and the Secretary determines, on the basis of such  
22 objection, that the goods or technology shall not be removed  
23 from the list.

24        "(h) TECHNICAL ADVISORY COMMITTEES.—(1) Upon  
25 written request by representatives of a substantial segment of

1 any industry which produces any goods or technology subject  
2 to export controls under subsection (a) or being considered for  
3 such controls because of their significance to the national se-  
4 curity of the United States, the Secretary shall appoint a  
5 technical advisory committee for any such goods or technol-  
6 ogy which the Secretary determines are difficult to evaluate  
7 because of questions concerning technical matters, worldwide  
8 availability, and actual utilization of production and technol-  
9 ogy, or licensing procedures. Each such committee shall con-  
10 sist of representatives of United States industry and Govern-  
11 ment, including the Departments of Commerce, Defense, and  
12 State and, in the discretion of the Secretary, other Govern-  
13 ment departments and agencies. No person serving on any  
14 such committee who is a representative of industry shall  
15 serve on such committee for more than four consecutive  
16 years.

Industry  
Reps on

17        "(2) Technical advisory committees established under  
18 paragraph (1) shall advise and assist the Secretary, the Sec-  
19 retary of Defense, and any other department, agency, or offi-  
20 cial of the Government of the United States to which the  
21 President delegates authority under this Act, with respect to  
22 actions designed to carry out the policy set forth in section  
23 3(2)(A) of this Act. Such committees, where they have exper-  
24 tise in such matters, shall be consulted with respect to ques-  
25 tions involving (A) technical matters, (B) worldwide avail-

1 ability and actual utilization of production technology, (C)  
2 licensing procedures which affect the level of export controls  
3 applicable to any goods or technology, and (D) exports sub-  
4 ject to multilateral controls in which the United States par-  
5 ticipates, including proposed revisions of any such multilater-  
6 al controls. Nothing in this subsection shall prevent the Sec-  
7 retary or the Secretary of Defense from consulting, at any  
8 time, with any person representing industry or the general  
9 public, regardless of whether such person is a member of a  
10 technical advisory committee. Members of the public shall be  
11 given a reasonable opportunity, pursuant to regulations  
12 prescribed by the Secretary, to present evidence to such  
13 committees.

14        "(3) To facilitate the work of the technical advisory  
15 committees, the Secretary, in conjunction with other depart-  
16 ments and agencies participating in the administration of this

17 Act, shall disclose to each such committee adequate informa-  
18 tion, consistent with national security, pertaining to the rea-  
19 sons for the export controls which are in effect or contem-  
20 plated for the goods or technology with respect to which that  
21 committee furnishes advice.

22        "(4) Whenever a technical advisory committee certifies  
23 to the Secretary that goods or technology with respect to  
24 which such committee was appointed have become available  
25 in fact, to countries to which exports are controlled under

*Sec. Comm.  
may declassif.*

1 this section, from sources outside the United States, includ-  
2 ing countries which participate with the United States in  
3 multilateral export controls, in sufficient quantity and of suffi-  
4 cient quality so that requiring a validated license for the  
5 export of such goods or technology would be ineffective in  
6 achieving the purpose set forth in subsection (a), and provides  
7 adequate documentation for such certification, in accordance  
8 with the procedures established pursuant to subsection (f)(1)  
9 of this section, the Secretary shall take steps to verify such  
10 availability, and upon such verification shall remove the re-  
11 quirement of a validated license for the export of the goods or  
12 technology, unless the President determines that the absence  
13 of export controls under this section would prove detrimental  
14 to the national security of the United States. In any case in  
15 which the President determines that export controls under  
16 this section must be maintained notwithstanding foreign  
17 availability, the Secretary shall publish that determination  
18 together with a concise statement of its basis, and the esti-  
19 mated economic impact of the decision.

20        "(i) MULTILATERAL EXPORT CONTROLS.—(1) The  
21 President shall enter into negotiations with the governments  
22 participating in the group known as the Coordinating Com-  
23 mittee of the Consultative Group (hereinafter in this subsec-  
24 tion referred to as the 'Committee') with a view toward  
25 accomplishing the following objectives:

1                 “(A) Agreement to publish the list of items con-  
2                 trolled for export by agreement of the Committee,  
3                 together with all notes, understandings, and other  
4                 aspects of such agreement, and all changes thereto.

5                 “(B) Agreement to hold periodic meetings of such  
6                 governments with high-level representation from such  
7                 governments, for the purpose of discussing export con-  
8                 trol policy issues and issuing policy guidance to the  
9                 Committee.

10                 “(C) Agreement to reduce the scope of the export  
11                 controls imposed by agreement of the Committee to a STAT  
12                 level acceptable to and enforceable by all governments  
13                 participating in the Committee.

14                 “(D) Agreement on more effective procedures for  
15                 enforcing the export controls agreed to pursuant to  
16                  subparagraph (C).

17                 “(2) The President shall include, in each annual report  
18                 required by section 14 of this Act, a detailed report on the  
19                 progress of the negotiations required by paragraph (1), until  
20                 such negotiations are concluded.

21                 “(3) In any case in which goods or technology con-  
22                 trolled for export by agreement of the Committee are export-  
23                 ed from the United States to countries which participate in  
24                 the Committee, no condition shall be imposed by the United

1 States with respect to the further export of such goods or  
2 technology from such countries.

3        "(j) COMMERCIAL AGREEMENTS WITH CERTAIN  
4 COUNTRIES.—(1) Any United States person who, for com-  
5 mercial purposes, enters into any agreement with any agency  
6 of the government of a country to which exports are re-  
7 stricted for national security purposes, which agreement cites  
8 an intergovernmental agreement (to which the United States  
9 and such country are parties) calling for the encouragement  
10 of technical cooperation, and which agreement is intended to  
11 result in the export from the United States to the other party  
12 of unpublished technical data of United States origin, shall  
13 report such agreement to the Secretary.

14        "(2) The provisions of paragraph (1) shall not apply to  
15 colleges, universities, or other educational institutions.

} Equal Protection?

16        "(k) NEGOTIATIONS WITH OTHER COUNTRIES.—The  
17 Secretary of State, in consultation with the Secretary of De-  
18 fense, the Secretary of Commerce, and the heads of other  
19 appropriate departments and agencies, shall be responsible  
20 for conducting negotiations with other countries regarding  
21 their cooperation in restricting the export of goods and tech-  
22 nology in order to carry out the policy set forth in section  
23 3(9) of this Act, as authorized by subsection (a) of this sec-  
24 tion, including negotiations with respect to which goods and  
25 technology should be subject to multilaterally agreed export

1 restrictions and what conditions should apply for exceptions  
2 from those restrictions.

3                   **"FOREIGN POLICY CONTROLS**

4         "SEC. 6. (a) AUTHORITY.—(1) In order to effectuate  
5 the policy set forth in paragraph (2)(B), (7), or (8) of section 3  
6 of this Act, the President may prohibit or curtail the exporta-  
7 tion of any goods, technology, or other information subject to  
8 the jurisdiction of the United States or exported by any  
9 person subject to the jurisdiction of the United States, to the  
10 extent necessary to further significantly the foreign policy of  
11 the United States or to fulfill its international responsibilities.

12 The authority granted by this subsection shall be exercised  
13 by the Secretary, in consultation with the Secretary of State  
14 and such other departments and agencies as the Secretary  
15 considers appropriate, and shall be implemented by means of  
16 export licenses issued by the Secretary.

17         "(2)(A) Whenever the Secretary makes any revision  
18 with respect to any goods, technology, or other information,  
19 or with respect to the countries or destinations affected by  
20 export controls imposed under this subsection, the Secretary  
21 shall publish in the Federal Register a notice of such revi-  
22 sion, and shall specify in the notice that the revision relates  
23 to controls imposed under the authority contained in this  
24 subsection.

1        "(B) Whenever the Secretary denies any export license  
2 under this subsection, the Secretary shall specify in the  
3 notice to the applicant of the denial of such license that the  
4 license was denied under the authority contained in this sub-  
5 section, and the reasons for such denial, with reference to the  
6 criteria set forth in subsection (b) of this section.

*Foreign  
Policy denial  
requires  
publication of  
reasons*

7        "(3) In accordance with the provisions of section 10 of  
8 this Act, the Secretary of State shall have the right to review  
9 any export license application under this section that the Sec-  
10 retary requests to review, and to appeal to the President any  
11 decision of the Secretary with respect to such license  
12 application.

13       "(b) CRITERIA.—In determining whether to impose  
14 export controls under this section, the President, acting  
15 through the Secretary and the Secretary of State, shall  
16 consider—

17                "(1) the likely effectiveness of the proposed con-  
18 trols in achieving their purpose, including the availabil-  
19 ity from other countries of any goods or technology  
20 comparable to goods or technology proposed for export  
21 controls under this section;

22                "(2) the compatibility of the proposed controls  
23 with the foreign policy objectives of the United States,  
24 including the effort to counter international terrorism,

1       and with overall United States policy toward the coun-  
2       try which is the proposed target of the controls;

3               “(3) the likely effects of the proposed controls on  
4       the export performance of the United States, on the  
5       competitive position of the United States in the inter-  
6       national economy, and on individual United States  
7       companies and their employees and communities, in-  
8       cluding the effects of the controls on existing contracts;  
9       and

10              “(4) the ability of the United States Government  
11       to enforce the proposed controls effectively.

12             “(c) CONSULTATION WITH INDUSTRY.—The Secre-  
13       tary, before imposing export controls under this section, shall  
14       consult with such affected United States industries as the  
15       Secretary considers appropriate, with respect to the criteria  
16       set forth in paragraphs (1) and (3) of subsection (b) and such  
17       other matters as the Secretary considers appropriate.

18             “(d) ALTERNATIVE MEANS.—Before resorting to the  
19       imposition of export controls under this section, the President  
20       shall determine that reasonable efforts have been made to  
21       achieve the purposes of the controls through negotiations or  
22       other alternative means.

23             “(e) NOTIFICATION TO CONGRESS.—The President in  
24       every possible instance shall consult with the Congress  
25       before imposing any export control under this section. When-

1 ever the President imposes any export control with respect to  
2 any country under this section, he shall immediately notify  
3 the Congress of the imposition of such export control, and  
4 shall submit with such notification a report specifying—

5           “(1) the reasons for the control, the purposes the  
6 control is designed to achieve, and the conditions under  
7 which the control will be removed;

8           “(2) those considerations of the criteria set forth  
9 in subsection (b) which led him to determine that on  
10 balance such export control would further the foreign  
11 policy interests of the United States or fulfill its inter-  
12 national responsibilities, including those criteria which  
13 were determined to be inapplicable;

14           “(3) the nature and results of consultations with  
15 industry undertaken pursuant to subsection (c); and

16           “(4) the nature and results of any alternative  
17 means attempted under subsection (d), or the reasons  
18 for imposing the control without attempting any such  
19 alternative means.

20 To the extent necessary to further the effectiveness of such  
21 export control, portions of such report may be submitted on a  
22 classified basis, and shall be subject to the provisions of sec-  
23 tion 12(c) of this Act. If the Congress, within sixty days after  
24 the receipt of such notification, adopts a concurrent resolu-  
25 tion disapproving such export control, then such export con-

1 trol shall cease to be effective upon the adoption of the reso-  
2 lution. In the computation of such sixty-day period, there  
3 shall be excluded the days on which either House of Con-  
4 gress is not in session because of an adjournment of more  
5 than three days to a day certain or because of an adjourn-  
6 ment of the Congress sine die. The procedures set forth in  
7 section 130 of the Atomic Energy Act of 1954 shall apply to  
8 any concurrent resolution referred to in this subsection,  
9 except that any such resolution shall be reported by the ap-  
10 propriate committees of both Houses of Congress not later  
11 than forty-five days after the receipt of the notification sub-  
12 mitted pursuant to this subsection.

13       “(f) EXCLUSION FOR FOOD AND MEDICINE.—This sec-  
14 tion does not authorize export controls on food, medicine, or  
15 medical supplies. It is the intent of Congress that the Presi-  
16 dent not impose export controls under this section on any  
17 goods or technology if he determines that the principal effect  
18 of the export of such goods or technology would be to help  
19 meet basic human needs. This subsection shall not be con-  
20 strued to prohibit the President from imposing restrictions on  
21 the export of food, medicine, or medical supplies, under the  
22 International Emergency Economic Powers Act.

23       “(g) TRADE EMBARGOES.—This section does not au-  
24 thorize the imposition by the United States of a total trade  
25 embargo on any country. This subsection shall not be con-

1 strued to prohibit the President from imposing a trade embar-  
2 go under the the International Emergency Economic Powers  
3 Act.

4        "(h) FOREIGN AVAILABILITY.—In applying export con-  
5 trols under this section, the President shall take all feasible  
6 steps to initiate and conclude negotiations with appropriate  
7 foreign governments for the purpose of securing the coopera-  
8 tion of such foreign governments in controlling the export to  
9 countries and consignees to which the United States export  
10 controls apply of any goods or technology comparable to  
11 goods or technology controlled for export under this section.

12        "(i) INTERNATIONAL OBLIGATIONS.—The limitations  
13 contained in subsections (b), (c), (d), (f), (g), and (h) shall not  
14 apply in any case in which the President exercises the au-  
15 thority contained in this section to impose export controls, or  
16 to approve or deny export license applications, in order to  
17 fulfill commitments of the United States pursuant to treaties  
18 to which the United States is a party, or to comply with  
19 decisions or other actions of international organizations of  
20 which the United States is a member.

21        "(j) EXISTING CONTROLS.—The provisions of subsec-  
22 tions (f) and (g) shall not apply to any export control on food  
23 or medicine or to any trade embargo in effect on the effective  
24 date of the Export Administration Act Amendments of 1979.

1       “(k) CONTROL LIST.—The Secretary shall establish  
2 and maintain, as part of the commodity control list, a list of  
3 any goods or technology subject to export controls under this  
4 section, and the countries to which such controls apply. Such  
5 goods or technology shall be clearly identified as subject to  
6 controls under this section. Such list shall consist of goods  
7 and technology identified by the Secretary of State, with the  
8 concurrence of the Secretary. If the Secretary and the Secre-  
9 tary of State are unable to agree on the list, the matter shall  
10 be referred to the President for resolution. The Secretary  
11 shall issue regulations providing for periodic revision of such  
12 list for the purpose of eliminating export controls which are  
13 no longer necessary to fulfill the purpose set forth in subsec-  
14 tion (a) of this section or are no longer advisable under the  
15 criteria set forth in subsection (b) of this section.”.

16 (c) The Export Administration Act of 1969 is amended  
17 by inserting after section 9, as redesignated by subsection (a)  
18 of this section, the following new section:

19        "PROCEDURES FOR PROCESSING VALIDATED AND  
20        QUALIFIED GENERAL LICENSE APPLICATIONS

21        "SEC. 10. (a) GENERAL RESPONSIBILITY OF THE SEC-  
22    RETARY; DESIGNATED OFFICIAL.—(1) All export license  
23    applications required under this Act shall be submitted by the  
24    applicant to the Secretary. All determinations with respect to  
25    any such application shall be made by the Secretary, subject

1 to the procedures provided in this section for objections by  
2 other agencies. The Secretary may not delegate the authority  
3 to deny any such application to any official holding a rank  
4 lower than Deputy Assistant Secretary.

5 "(2) For purposes of this section, the term 'designated  
6 official' means an official designated by the Secretary to  
7 carry out functions under this Act with respect to the admin-  
8 istration of export licenses.

9 "(b) APPLICATIONS TO BE REVIEWED BY OTHER  
10 AGENCIES.—(1) It is the intent of Congress that a determi-  
11 nation with respect to any export license application be made  
12 to the maximum extent possible by the Secretary without  
13 referral of such application to any other Government agency.

14 "(2) The head of any Government agency concerned  
15 with export controls may, within ninety days after the effec-  
16 tive date of this section, and periodically thereafter, in con-  
17 sultation with the Secretary, determine the specific types and  
18 categories of license applications to be reviewed by such  
19 agency before the Secretary approves or disapproves any  
20 such application. The Secretary shall, in accordance with the  
21 provisions of this section, submit to the agency involved any  
22 license application of any such type or category.

23 "(c) INITIAL SCREENING.—Within ten days after the  
24 date on which any export license application is received, the  
25 designated official shall—

1                 “(1) send to the applicant an acknowledgment of  
2                 the receipt of the application and the date of the  
3                 receipt;

4                 “(2) submit to the applicant a written description  
5                 of the procedures required by this section, the responsi-  
6                 bilities of the Secretary and of other agencies with re-  
7                 spect to the application, and the rights of the applicant;

8                 “(3) return the application without action if the  
9                 application is improperly completed or if additional in-  
10                 formation is required, with sufficient information to  
11                 permit the application to be properly resubmitted, in  
12                 which case if such application is resubmitted, it shall  
13                 be treated as a new application for the purpose of cal-  
14                 culating the time periods prescribed in this section; and

15                 “(4) determine whether it is necessary to submit  
16                 the application to any other agency and, if such sub-  
17                 mission is determined to be necessary, inform the ap-  
18                 plicant of the agency or agencies to which the applica-  
19                 tion will be referred.

20                 “(d) ACTION BY THE DESIGNATED OFFICIAL.—Within  
21                 thirty days after the date on which an export license applica-  
22                 tion is received, the designated official shall—

23                 “(1) approve or disapprove the application and  
24                 formally issue or deny the license, as the case may be;  
25                 or

1                 “(2)(A) submit the application, together with all  
2                 necessary analysis and recommendations of the Depart-  
3                 ment of Commerce, concurrently to any other agencies  
4                 pursuant to subsection (b)(2); and

5                 “(B) if the applicant so requests, provide the ap-  
6                 plicant with an opportunity to review for accuracy any  
7                 documentation submitted to such other agency with re-  
8                 spect to such application.

9                 “(e) ACTION BY OTHER AGENCIES.—(1) Any agency  
10                 to which an application is submitted pursuant to subsection  
11                 (d)(2)(A) shall submit to the designated official, within thirty  
12                 days after the end of the thirty-day period referred to in sub-  
13                 section (d), any recommendations with respect to such appli-  
14                 cation. Except as provided in paragraph (2), any such agency  
15                 which does not so submit its recommendations within the  
16                 time period prescribed in the preceding sentence shall be  
17                 deemed by the designated official to have no objection to the  
18                 approval of such application.

19                 “(2) If the head or acting head of any such agency noti-  
20                 fies the Secretary before the expiration of the time period  
21                 provided in paragraph (1) for submission of its recommenda-  
22                 tions that more time is required for review of the application  
23                 by such agency, the agency shall have an additional thirty-  
24                 day period to submit its recommendations to the designated  
25                 official. If such agency does not so submit its recommenda-

1 tions within the time period prescribed by the preceding sen-  
2 tence, it shall be deemed by the designated official to have no  
3 objection to the approval of the application.

4       **"(f) DETERMINATION BY THE DESIGNATED OFFI-**  
5 **CIAL.**—(1) The designated official shall take into account any  
6 recommendation of an agency submitted with respect to an  
7 application to the designated official pursuant to subsection  
8 (e), and, within twenty days after the end of the appropriate  
9 period specified in subsection (e) for submission of such  
10 agency recommendations, shall—

11           "(A) approve or disapprove the application and  
12 inform such agency of such approval or disapproval; or

13           "(B) if unable to reach a decision with respect to  
14 the application, refer the application to the Secretary  
15 and notify such agency and the applicant of such  
16 referral.

17       "(2) The designated official shall formally issue or deny  
18 the license, as the case may be, not more than ten days after  
19 such official makes a determination under paragraph (1)(A),  
20 unless any agency which submitted a recommendation to the  
21 designated official pursuant to subsection (e) with respect to  
22 the license application, notifies such official, within such ten-  
23 day period, that it objects to the determination of the desig-  
24 nated official.

1        "(3) The designated official shall fully inform the appli-  
2 cant, to the maximum extent consistent with the national  
3 security and foreign policy of the United States—

4                "(A) within five days after a denial of the applica-  
5 tion, of the statutory basis for the denial, the policies  
6 in section 3 of this Act that formed the basis of the  
7 denial, the specific circumstances that led to the denial,  
8 and the applicant's right to appeal the denial to the  
9 Secretary under subsection (k) of this section; or

10               "(B) in the case of a referral to the Secretary  
11 under paragraph (1)(B) or an objection by an agency  
12 under paragraph (2), of the specific questions raised  
13 and any negative considerations or recommendations  
14 made by an agency, and shall accord the applicant an  
15 opportunity, before the final determination with respect  
16 to the application is made, to respond in writing to  
17 such questions, considerations, or recommendations.

18        "(g) ACTION BY THE SECRETARY.—(1)(A) In the case  
19 of an objection of an agency of which the designated official  
20 is notified under subsection (f)(2), the designated official shall  
21 refer the application to the Secretary. The Secretary shall  
22 consult with the head of such agency, and, within twenty  
23 days after such notification, shall approve or disapprove the  
24 license application and immediately inform such agency head  
25 of such approval or disapproval.

1        "(B) In the case of a referral to the Secretary under  
2 subsection (f)(1)(B), the Secretary shall, within twenty days  
3 after notification of the referral is transmitted pursuant to  
4 such subsection, approve or disapprove the application and  
5 immediately inform any agency which submitted recommen-  
6 dations with respect to the application, of such approval or  
7 disapproval.

8        "(2) The Secretary shall formally issue or deny the li-  
9 cense, as the case may be, within ten days after approving or  
10 disapproving an application under paragraph (1), unless the  
11 head of the agency referred to in paragraph (1)(A), or the  
12 head of an agency described in paragraph (1)(B), as the case  
13 may be, notifies the Secretary of his or her objection to the  
14 approval or disapproval.

15       "(3) The Secretary shall immediately and fully inform  
16 the applicant, in accordance with subsection (f)(3), of any  
17 action taken under paragraph (1) or (2) of this subsection.

18       "(4) The Secretary may not delegate the authority to  
19 carry out the actions required by this subsection to any offi-  
20 cial holding a rank lower than Deputy Assistant Secretary.

21       "(h) ACTION BY THE PRESIDENT.—In the case of noti-  
22 fication by an agency head, under subsection (g)(2), of an  
23 objection to the Secretary's decision with respect to an appli-  
24 cation, the Secretary shall immediately refer the application  
25 to the President. Within thirty days after such notification,

1 the President shall approve or disapprove the application and  
2 the Secretary shall immediately issue or deny the license, in  
3 accordance with the President's decision. In any case in  
4 which the President does not approve or disapprove the ap-  
5 plication within such thirty-day period, the decision of the  
6 Secretary shall be final and the Secretary shall immediately  
7 issue or deny the license in accordance with the Secretary's  
8 decision.

9        "(i) SPECIAL PROCEDURES FOR SECRETARY OF DE-`  
10 FENSE.—(1) Notwithstanding any other provision of this sec-  
11 tion, the Secretary of Defense is authorized to review any  
12 proposed export of any goods or technology to any country to  
13 which exports are controlled for national security purposes  
14 and, whenever he determines that the export of such goods  
15 or technology will make a significant contribution, which  
16 would prove detrimental to the national security of the  
17 United States, to the military potential of any such country,  
18 to recommend to the President that such export be  
19 disapproved.

20        "(2) Notwithstanding any other provision of law, the  
21 Secretary of Defense shall determine, in consultation with  
22 the export control office to which licensing requests are  
23 made, the types and categories of transactions which should  
24 be reviewed by him in order to make a determination referred  
25 to in paragraph (1). Whenever a license or other authority is

1 requested for the export to any country to which exports are  
2 controlled for national security purposes of goods or technol-  
3 ogy within any such type or category, the appropriate export  
4 control office or agency to which such request is made shall  
5 notify the Secretary of Defense of such request, and such  
6 office may not issue any license or other authority pursuant  
7 to the request before the expiration of the period within  
8 which the President may disapprove such export. The Secre-  
9 tary of Defense shall carefully consider all notifications sub-  
10 mitted to him pursuant to this paragraph and, not later than  
11 thirty days after notification of the request, shall—

12           “(A) recommend to the President that he disap-  
13 prove any request for the export of any goods or tech-  
14 nology to any such country if he determines that the  
15 export of such goods or technology will make a signifi-  
16 cant contribution, which would prove detrimental to  
17 the national security of the United States, to the mili-  
18 tary potential of such country or any other country;

19           “(B) notify such office or agency that he will in-  
20 terpose no objection if appropriate conditions designed  
21 to achieve the purposes of this Act are imposed; or

22           “(C) indicate that he does not intend to interpose  
23 an objection to the export of such goods or technology.

24 If the President notifies such office or agency, within thirty  
25 days after receiving a recommendation from the Secretary of

1 Defense, that he disapproves such export, no license or other  
2 authority may be issued for the export of such goods or tech-  
3 nology to such country.

4 "(3) The Secretary shall approve or disapprove a license  
5 application, and issue or deny a license, in accordance with  
6 the provisions of this subsection, and, to the extent applica-  
7 ble, in accordance with the time periods and procedures  
8 otherwise set forth in this section.

9 "(j) MULTILATERAL REVIEW.—(1) In any case in  
10 which an application, which has been finally approved under  
11 subsection (d), (f), (g), (h), or (i) of this section, is required to  
12 be submitted to a multilateral review process, pursuant to a  
13 multilateral agreement, formal or informal, to which the  
14 United States is a party, the license shall not be issued as  
15 prescribed in such subsections; but the Secretary shall notify  
16 the applicant of the approval (and the date of such approval)  
17 of the application by the United States Government, subject  
18 to such multilateral review. The license shall be issued upon  
19 approval of the application under such multilateral review. If  
20 such multilateral review has not resulted in a determination  
21 with respect to the application within sixty days after such  
22 date, the Secretary's approval of the application shall be final  
23 and the license shall be issued. The Secretary shall institute  
24 such procedures for preparation of necessary documentation  
25 before final approval of the application by the United States

1 Government as the Secretary considers necessary to imple-  
2 ment the provisions of this paragraph.

3       “(2) In any case in which the approval of the United  
4 States Government is sought by a foreign government for the  
5 export of goods or technology pursuant to a multilateral  
6 agreement, formal or informal, to which the United States is  
7 a party, the Secretary of State, after consulting with other  
8 appropriate United States Government agencies, shall,  
9 within sixty days after the date on which the request for such  
10 approval is made, make a determination with respect to the  
11 request for approval. Any such other agency which does not  
12 submit a recommendation to the Secretary of State before the  
13 end of such sixty-day period shall be deemed by the Secre-  
14 tary of State to have no objection to the request for United  
15 States Government approval. The Secretary of State may  
16 not delegate the authority to disapprove a request for United  
17 States Government approval under this paragraph to any of-  
18 ficial of the Department of State holding a rank lower than  
19 Deputy Assistant Secretary.

20       “(k) EXTENSIONS.—If the Secretary determines that a  
21 particular application or set of applications is of exceptional  
22 importance and complexity, and that additional time is re-  
23 quired for negotiations to modify the application or applica-  
24 tions, the Secretary may extend any time period prescribed in

1 this section. The Secretary shall notify the Congress and the  
2 applicant of such extension and the reasons therefor.

3       “(l) APPEAL AND COURT ACTION.—(1) The Secretary  
4 shall establish appropriate procedures for any applicant to  
5 appeal to the Secretary the denial of an export license appli-  
6 cation of the applicant.

7       “(2) In any case in which any action prescribed in this  
8 section is not taken on a license application within the time  
9 periods established by this section (except in the case of a  
10 time period extended under subsection (k) of which the appli-  
11 cant is notified), the applicant may file a petition with the  
12 Secretary requesting compliance with the requirements of  
13 this section. When such petition is filed, the Secretary shall  
14 take immediate steps to correct the situation giving rise to  
15 the petition and shall immediately notify the applicant of such  
16 steps.

17       “(3) If, within thirty days after petition is filed under  
18 paragraph (2), the processing of the application has not been  
19 brought into conformity with the requirements of this section,  
20 or, if the application has been brought into conformity with  
21 such requirements, the Secretary has not so notified the ap-  
22 plicant, the applicant may bring an action in an appropriate  
23 United States district court for a restraining order, a tempo-  
24 rary or permanent injunction, or other appropriate relief, to  
25 require compliance with the requirements of this section. The

1 United States district courts shall have jurisdiction to provide  
2 such relief as appropriate.

3        "(m) RECORDS.—The Secretary and any agency to  
4 which any application is referred under this section shall keep  
5 accurate records with respect to all applications considered  
6 by the Secretary or by any such agency.".

## **7 SHORT SUPPLY LICENSE ALLOCATION**

8 SEC. 105. Section 7 of the Export Administration Act  
9 of 1969, as redesignated by section 104(a) of this Act, is  
10 amended in subsection (b) by adding the following at the end  
11 of paragraph (1): “Such factors shall include the extent to  
12 which a country engages in equitable trade practices with  
13 respect to United States goods and treats the United States  
14 equitably in times of short supply.”.

## 15 MONITORING OF EXPORTS

16 SEC. 106. Section 7 of the Export Administration Act  
17 of 1969, as redesignated by section 104(a) of this Act, is  
18 amended by amending paragraph (1) of subsection (c) to read  
19 as follows:

“(c)(1) To effectuate the policy set forth in section  
3(2)(C) of this Act, the Secretary shall monitor exports, and  
contracts for exports, of any good (other than a commodity  
which is subject to the reporting requirements of section 812  
of the Agricultural Act of 1970) when the volume of such  
exports in relation to domestic supply contributes, or may

1 contribute, to an increase in domestic prices or a domestic  
2 shortage, and such price increase or shortage has, or may  
3 have, a serious adverse impact on the economy or any sector  
4 thereof. Any such monitoring shall commence at a time ade-  
5 quate to assure that the monitoring will result in a data base  
6 sufficient to enable policies to be developed, in accordance  
7 with section 3(2)(C) of this Act, to mitigate a short supply  
8 situation or serious inflationary price rise or, if export con-  
9 trols are needed, to permit imposition of such controls in a  
10 timely manner. Information which the Secretary requires to  
11 be furnished in effecting such monitoring shall be confidential,  
12 except as provided in paragraph (2) of this subsection.”.

## DOMESTIC CRUDE OIL

14 SEC. 107. Subsection (l) of section 7 of the Export Ad-  
15 ministration Act of 1969, as such section is redesignated by  
16 section 104(a) of this Act, is amended—

17 (1) in paragraph (1)—

1           in paragraph (2)(A)(ii) of this subsection for con-  
2           sumers in the United States, or", and

3           (B) by striking out "during the 2-year period  
4           beginning on the date of enactment of this subsec-  
5           tion"; and

6           (2) by striking out paragraph (2) and inserting in  
7           lieu thereof the following:

8           "(2) Crude oil subject to the prohibition contained in  
9           paragraph (1) may be exported only if—

10           "(A) the President makes and publishes express  
11           findings that exports of such crude oil, including  
12           exchanges—

13           "(i) will not diminish the total quantity or  
14           quality of petroleum refined within, stored within,  
15           or legally committed to be transported to and sold  
16           within the United States;

17           "(ii) will, within three months following the  
18           initiation of such exports or exchanges, result in  
19           (I) acquisition costs to the refineries which pur-  
20           chase the imported crude oil being lower than the  
21           acquisition costs such refiners would have to pay  
22           for the domestically produced oil which is ex-  
23           ported, and (II) commensurately reduced whole-  
24           sale and retail prices of products refined from  
25           such imported crude oil;

1                         “(iii) will be made only pursuant to contracts  
2                         which may be terminated if the crude oil supplies  
3                         of the United States are interrupted, threatened,  
4                         or diminished;

5 "(iv) are clearly necessary to protect the na-  
6 tional interest; and

7                         “(v) are in accordance with the provisions of  
8                         this Act; and

9                "(B) the President reports such findings to the  
10          Congress and the Congress, within sixty days there-  
11          after, passes a concurrent resolution approving such  
12          exports on the basis of the findings.

13 Findings of lower costs and prices described in subparagraph  
14 (A)(ii) should be audited and verified by the General Account-  
15 ing Office at least semiannually.

16        "(3) Notwithstanding any other provision of this section  
17 and notwithstanding subsection (u) of section 28 of the Min-  
18 eral Leasing Act of 1920, the President may export oil other-  
19 wise subject to this subsection to any nation pursuant to a  
20 bilateral international oil supply agreement entered into by  
21 the United States with such nation before May 1, 1979.". :

UGANDA

23 SEC. 108. Section 7 of the Export Administration Act  
24 of 1969, as redesignated by section 104 of this Act, is

1 amended by repealing subsection (m), as added by section  
2 5(d) of the Act of October 10, 1978 (Public Law 95-435).

3                   **BARTER AGREEMENTS**

4        SEC. 109. Section 7 of the Export Administration Act  
5 of 1969, as redesignated by section 104 of this Act, is  
6 amended by adding at the end thereof the following new sub-  
7 section:

8               “(n)(1) The exportation pursuant to a barter agreement  
9 of any goods which may lawfully be exported from the United  
10 States, for any goods which may lawfully be imported into  
11 the United States, may be exempted, in accordance with  
12 paragraph (2) of this subsection, from any quantitative limita-  
13 tion on exports (other than any reporting requirement) im-  
14 posed to carry out the policy set forth in section (3)(2)(C) of  
15 this Act, or imposed by the President under the International  
16 Emergency Economic Powers Act (50 U.S.C. App. 1701 et  
17 seq.) on account of a threat to the economy of the United  
18 States.

19               “(2) The Secretary shall grant an exemption under  
20 paragraph (1) if the Secretary finds, after consultation with  
21 the head of any appropriate agency of the United States,  
22 that—

23               “(A) for the period during which the barter agree-  
24               ment is to be performed—

1                 “(i) the average annual quantity of the goods  
2                 to be exported pursuant to the barter agreement  
3                 will not be required to satisfy the average amount  
4                 of such goods estimated to be required annually  
5                 by the domestic economy and will be surplus  
6                 thereto; and

7                 “(ii) the average annual quantity of the  
8                 goods to be imported will be less than the average  
9                 amount of such goods estimated to be required  
10                 annually to supplement domestic production; and  
11                 “(B) the parties to such barter agreement have  
12                 demonstrated adequately that they intend, and have  
13                 the capacity, to perform such barter agreement.

14        "(3) For purposes of this subsection, the term 'barter  
15 agreement' means any agreement which is made for the ex-  
16 change, without monetary consideration, of any goods pro-  
17 duced in the United States for any goods produced outside of  
18 the United States.

19       “(4) This subsection shall apply only with respect to  
20 barter agreements entered into after the effective date of the  
21 Export Administration Act Amendments of 1979.”.

## 22 UNPROCESSED RED CEDAR

23 SEC. 110. (a) The Secretary of Commerce shall require  
24 a validated license, under section 7 of the Export Adminis-  
25 tration Act of 1969, as redesignated by section 104(a) of this

1 Act, for the export of unprocessed western red cedar (*Thuja*  
2 *plicata*) logs, harvested from State or Federal lands. The  
3 Secretary shall impose quantitative restrictions upon the  
4 export of unprocessed western red cedar logs during the  
5 three-year period beginning on the effective date of this Act  
6 as follows:

7 (1) Not more than thirty million board feet  
8 scribner of such logs may be exported during the first  
9 year of such three-year period.

10 (2) Not more than fifteen million board feet  
11 scribner of such logs may be exported during the  
12 second year of such period.

13 (3) Not more than five million board feet scribner  
14 of such logs may be exported during the third year of  
15 such period.

16 After the end of such three-year period, no unprocessed  
17 western red cedar logs may be exported from the United  
18 States.

19 (b) The Secretary of Commerce shall allocate export li-  
20 censes to exporters pursuant to this section on the basis of a  
21 prior history of exportation by such exporters and such other  
22 factors as the Secretary considers necessary and appropriate  
23 to minimize any hardship to the producers of western red  
24 cedar and to further the foreign policy of the United States.

1       (c) Unprocessed western red cedar logs shall not be con-  
2 sidered to be an agricultural commodity for purposes of sub-  
3 section (f) of section 7 of the Export Administration Act of  
4 1969, as such section is redesignated by section 104(a) of this  
5 Act.

6       (d) As used in this subsection, the term "unprocessed  
7 western red cedar" means red cedar timber which has not  
8 been processed into—

- 9              (1) lumber without wane;
- 10             (2) chips, pulp, and pulp products;
- 11             (3) veneer and plywood;
- 12             (4) poles, posts, or pilings cut or treated with pre-  
13 servative for use as such and not intended to be further  
14 processed; or
- 15             (5) shakes and shingles.

16                   CIVIL AIRCRAFT EQUIPMENT

17       SEC. 111. Notwithstanding any other provision of law,  
18 any product (1) which is standard equipment, certified by the  
19 Federal Aviation Administration, in civil aircraft and is an  
20 integral part of such aircraft, and (2) which is to be exported  
21 to a country other than a controlled country, shall be subject  
22 to export controls exclusively under the Export Administra-  
23 tion Act of 1969. Any such product shall not be subject to  
24 controls under section 38(b)(2) of the Arms Export Control  
25 Act. For purposes of this section, the term "controlled coun-

1 try" means any country described in section 620(f) of the  
2 Foreign Assistance Act of 1961.

3                   **NONPROLIFERATION CONTROLS**

4        SEC. 112. (a) Nothing in section 5 or 6 of the Export  
5 Administration Act of 1969, as added by section 104(b) of  
6 this Act, shall be construed to supersede the procedures pub-  
7 lished by the President pursuant to section 309(c) of the Nu-  
8 clear Non-Proliferation Act of 1978.

9        (b) With respect to any export license application which,  
10 under the procedures published by the President pursuant to  
11 section 309(c) of the Nuclear Non-Proliferation Act of 1978,  
12 is referred to the Subgroup on Nuclear Export Coordination  
13 or other <sup>a</sup>intergency group, the provisions of section 10 of the  
14 Export Administration Act of 1969, as added by section  
15 104(c) of this Act, shall apply with respect to such license  
16 application only to the extent that they are consistent with  
17 such published procedures, except that if the processing of  
18 any such application under such procedures is not completed  
19 within one hundred and eighty days after the receipt of the  
20 application by the Secretary of Commerce, the applicant  
21 shall have the rights of appeal and court action provided in  
22 subsection (k) of such section 10.

## 1                   VIOLATIONS

2         SEC. 113. Section 11 of the Export Administration Act  
3     of 1969, as redesignated by section 104(a) of this Act, is  
4     amended as follows:

5                 (1) Subsection (a) is amended to read as follows:

6                 “(a) Except as provided in subsection (b) of this section,  
7     whoever knowingly violates any provision of this Act or any  
8     regulation, order, or license issued thereunder shall be fined  
9     not more than five times the value of the exports involved or  
10    \$50,000, whichever is greater, or imprisoned not more than  
11    five years, or both.”.

12                (2) Subsection (b) is amended to read as follows:

13                “(b) Whoever willfully exports anything contrary to any  
14    provision of this Act or any regulation, order, or license  
15    issued thereunder, with knowledge that such exports will be  
16    used for the benefit of any country to which exports are re-  
17    stricted for national security or foreign policy purposes, shall  
18    be fined not more than five times the value of the exports  
19    involved or \$100,000, whichever is greater, or imprisoned  
20    not more than ten years, or both.”.

21                (3) Subsection (c)(2)(A) is amended by striking out  
22    “articles, materials, supplies, or technical data or other  
23    information” and inserting in lieu thereof, “goods,  
24    technology, or other information”.

1                   **CONFIDENTIALITY**

2       SEC. 114. (a) Subsection (c) of section 12 of the Export  
3     Administration Act of 1969, as such section is redesignated  
4     by section 104(a) of this Act, is amended—

5                   (1) in the first sentence by striking out “is deemed  
6     confidential or with reference to which a request for  
7     confidential treatment is made by the person furnishing  
8     such information” and inserting in lieu thereof “would  
9     reveal the parties to an export or re-export transaction,  
10    the type of good or technology being exported or re-  
11    exported, or the destination, end use, quantity, value,  
12    or price of such good or technology”; and

13                  (2) by striking out the last two sentences and in-  
14     serting in lieu thereof the following: “Nothing in this  
15    Act shall be construed as authorizing the withholding  
16    of information from Congress, and all information ob-  
17    tained at any time under this Act or previous Acts re-  
18    garding the control of exports, including any report or  
19    license application required under this Act, shall be  
20    made available upon request to any committee or sub-  
21    committee of Congress of appropriate jurisdiction. No  
22    such committee or subcommittee shall disclose any in-  
23    formation obtained under this Act or previous Acts re-  
24    garding the control of exports which is submitted on a  
25    confidential basis unless the full committee determines

1       that the withholding thereof is contrary to the national  
2       interest.”.

3 (b) The amendment made by subsection (a)(1) shall not  
4 require the withholding of any type of information which, im-  
5 mediately before the effective date of this Act, is not withheld  
6 from disclosure under section 7(c) of the Export Administra-  
7 tion Act of 1969.

**8** REPORT TO CONGRESS

9        SEC. 115. Section 14 of the Export Administration Act  
10 of 1969, as redesignated by section 104(a) of this Act, is  
11 amended to read as follows:

12 "ANNUAL REPORT

13        "SEC. 14. Not later than December 31 of each year, the  
14      Secretary shall submit to the Congress a report on the ad-  
15      ministration of this Act during the preceding fiscal year. All  
16      agencies shall cooperate fully with the Secretary in providing  
17      information for such report. Such report shall include detailed  
18      information with respect to—

19               “(1) the implementation of the policies set forth in  
20               section 3;

“(2) general licensing activities under sections 5,  
6. and 7;

23               “(3) actions taken in compliance with section  
24               5(c)(3);

1               “(4) changes in categories of items under export  
2 control referred to in section 5(e);

3               “(5) the operation of the indexing system under  
4 section 5(g);

5               “(6) determinations of foreign availability made  
6 under section 5(f), the criteria used to make such de-  
7 terminations, the removal of any export controls under  
8 such section, and any evidence demonstrating a need  
9 to impose export controls for national security purposes  
10 notwithstanding foreign availability;

11               “(7) consultations with the technical advisory  
12 committees established pursuant to section 5(h), the  
13 use made of the advice rendered by such committees,  
14 and the contributions of such committees toward imple-  
15 menting the policies set forth in this Act;

16               “(8) changes in policies toward individual coun-  
17 tries under section 5(b);

18               “(9) actions taken to carry out section 5(d);

19               “(10) the effectiveness of export controls imposed  
20 under section 6 in furthering the foreign policy of the  
21 United States;

22               “(11) the implementation of section 8;

23               “(12) export controls and monitoring under sec-  
24 tion 7;

1               “(13) organizational and procedural changes un-  
2               dertaken to increase the efficiency of the export licens-  
3               ing process and to fulfill the requirements of section  
4               10, including an analysis of the time required to proc-  
5               ess license applications and an accounting of appeals  
6               received, court orders issued, and actions taken pursu-  
7               ant thereto under subsection (l) of such section; and

8               “(14) violations under section 11 and enforcement  
9               activities under section 12.”.

10               **RULES AND REGULATIONS**

11               SEC. 116. The Export Administration Act of 1969 is  
12 amended by inserting after section 14, as redesignated by  
13 section 104(a) of this Act, the following new section:

14               **“REGULATORY AUTHORITY**

15               “SEC. 15. The President and the Secretary may issue  
16 such rules and regulations as are necessary to carry out the  
17 provisions of this Act. Any such rules or regulations issued to  
18 carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may  
19 apply to the financing, transporting, or other servicing of ex-  
20 ports and the participation therein by any person.”.

21               **DEFINITION**

22               SEC. 117. Section 16 of the Export Administration Act  
23 of 1969, as redesignated by section 104(a) of this Act, is  
24 amended—

1                   (1) in paragraph (1) by striking out “and” after  
2                   the semicolon;

6 (3) by adding at the end thereof the following:

7               “(3) the term ‘Secretary’ means the Secretary of  
8               Commerce.”.

## 9 EFFECT ON OTHER ACTS

10       SEC. 118. (a) Section 17 of the Export Administration  
11 Act of 1969, as redesignated by section 104(a) of this Act, is  
12 amended in subsection (b) by striking out “section 414 of the  
13 Mutual Security Act of 1954 (22 U.S.C. 1934)” and insert-  
14 ing in lieu thereof “section 38 of the Arms Export Control  
15 Act (22 U.S.C. 2778)”.

16           (b) Effective October 1, 1979, the Mutual Defense As-  
17 sistance Control Act of 1951 (22 U.S.C. 1611-1613d) is  
18 superseded.

**19 AUTHORIZATION OF APPROPRIATIONS**

20 SEC. 119. Section 18 of the Export Administration Act  
21 of 1969, as redesignated by section 104(a) of this Act, is  
22 amended to read as follows:

**23                  "AUTHORIZATION OF APPROPRIATIONS**

24        "SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGIS-  
25 LATION.—Notwithstanding any other provision of law, no

1 appropriation shall be made under any law to the Depart-  
2 ment of Commerce for expenses to carry out the purposes of  
3 this Act unless previously and specifically authorized by law.

4       “(b) AUTHORIZATION.—(1) There are authorized to be  
5 appropriated to the Department of Commerce to carry out  
6 the purposes of this Act \$7,070,000 for the fiscal year 1980  
7 and \$7,777,000 for the fiscal year 1981 (and such additional  
8 amounts as may be necessary for increases in salary, pay,  
9 retirement, other employee benefits authorized by law, and  
10 other nondiscretionary costs).

11        "(2) Of the funds appropriated to the Department of  
12 State for the fiscal year 1980, the Secretary of State may use  
13 such amounts as may be necessary to carry out the provi-  
14 sions of section 5(k) of this Act.".

15 TERMINATION DATE

16 SEC. 120. Section 20 of the Export Administration Act  
17 of 1969, as redesignated by section 104(a) of this Act, is  
18 amended by striking out “1979” and inserting in lieu thereof  
19 “1983”.

## 20 TECHNICAL AMENDMENTS

21 SEC. 121. (a) For purposes of this section, an amend-  
22 ment which is expressed in terms of an amendment to a sec-  
23 tion or other provision, shall be considered to be a section, as  
24 redesignated by section 104(a) of this Act, or other provision  
25 of the Export Administration Act of 1969.

1       (b) Section 7 is amended—

2               (1) in the section heading by striking out  
3               “AUTHORITY” and inserting in lieu thereof “OTHER  
4               CONTROLS”;

5               (2) in subsection (b)—

6                       (A) in paragraph (1)—

7                               (i) by inserting “(2)(C)” immediately  
8                       after “section 3” the first time it appears,

9                               (ii) by striking out “articles, materials,  
10                       or supplies, including technical data on any  
11                       other information,” and inserting in lieu  
12                       thereof “goods”,

13                               (iii) by striking out “articles, materials,  
14                       or supplies” and inserting in lieu thereof  
15                       “goods”, and

16                               (iv) by striking out “(A)” and inserting  
17                       in lieu thereof “(C)”; and

18                               (B) by striking out paragraph (2) and insert-  
19                       ing in lieu thereof the following:

20               “(2) Upon imposing quantitative restrictions on exports  
21               of any goods to carry out the policy stated in section 3(2)(C)  
22               of this Act, the Secretary shall include in a notice published  
23               in the Federal Register with respect to such restrictions an  
24               invitation to all interested parties to submit written com-  
25               ments within fifteen days from the date of publication on the

1 impact of such restrictions and the method of licensing used  
2 to implement them.”;

3 (3) in subsection (c)—

4 (A) in paragraph (1)—

5 (i) by striking out “(A)” and inserting in  
6 lieu thereof “(C)”,

7 (ii) by striking out “of Commerce”,  
8 (iii) by striking out “7(c)” and inserting  
9 in lieu thereof “12(c)”, and

10 (iv) by striking out “article, material, or  
11 supply” and inserting in lieu thereof  
12 “goods”;

13 (B) in paragraph (2) by striking out “each  
14 article, material, or supply” and inserting in lieu  
15 thereof “any goods”; and

16 (C) by adding at the end thereof the follow-  
17 ing new paragraph:

18 “(3) The Secretary shall consult with the Secretary of  
19 Energy to determine whether monitoring under this subsec-  
20 tion is warranted with respect to exports of facilities, machin-  
21 ery, or equipment normally and principally used, or intended  
22 to be used, in the production, conversion, or transportation of  
23 fuels and energy (except nuclear energy), including but not  
24 limited to, drilling rigs, platforms, and equipment; petroleum  
25 refineries, natural gas processing, liquefaction, and gasifica-

1 tion plants; facilities for production of synthetic natural gas  
2 or synthetic crude oil; oil and gas pipelines, pumping stations,  
3 and associated equipment; and vessels for transporting oil,  
4 gas, coal, and other fuels.”;

5 (4) in subsection (f)—

6 (A) in paragraph (1) by striking out “(B) or  
7 (C)” and inserting in lieu thereof “(A) or (B)”;

8 (B) in paragraph (2)—

9 (i) by striking out “of Commerce” each  
10 place it appears, and

11 (ii) by striking out “(A)” and inserting  
12 in lieu thereof “(C)”;

13 (C) in paragraph (3) by striking out “clause  
14 (A) or (B) of paragraph (2)” and inserting in lieu  
15 thereof “paragraph (2)(C)”;

16 (5) in subsection (i) by striking out “(A)” and in-  
17 serting in lieu thereof “(C)”;

18 (6) in subsection (j)—

19 (A) by striking out “(A)” and inserting in  
20 lieu thereof “(C)”;

21 (B) by striking out “of Commerce” each  
22 place it appears;

23 (7) by striking out subsections (a), (d), (e), (g), (h),  
24 and (k), and redesignating subsections (b), (c), (f), (i),  
25 (j), (l), subsection (m), as added by section 6(d)(2) of the

1       International Security Assistance Act of 1978, and  
2       subsection (n), as added by section 109 of this Act, as  
3       subsections (a), (b), (c), (d), (e), (f), (g), and (h), respec-  
4       tively.

5       (c) Section 8 is amended—

6              (1) in paragraphs (1)(D) and (5) of subsection (a)  
7       by striking out “of Commerce”; and

8              (2) in subsection (b)—

9                  (A) in paragraph (1) by striking out “4(b)”  
10       and inserting in lieu thereof “6(a)”; and

11                  (B) in paragraph (2) by striking out “of Com-  
12       merce” each place it appears.

13       (d) Section 9 is amended—

14              (1) by striking out “of Commerce” each place it  
15       appears; and

16              (2) by striking out “commodity” each place it ap-  
17       pears and inserting in lieu thereof “good”.

18       (e) Subsection (c)(2) of section 11 is amended by striking  
19       out “4A” each place it appears and inserting in lieu thereof  
20       “8”.

21       (f) Section 12 is amended—

22              (1) in subsection (b) by striking out “the Compul-  
23       sory Testimony Act of February 11, 1893 (27 Stat.  
24       443; 49 U.S.C. 46)” and inserting in lieu thereof “sec-  
25       tion 6002 of title 18, United States Code”;

- 1                     (2) in subsection (c)—  
2                         (A) by striking out “4A” and inserting in  
3                         lieu thereof “8”;  
4                         (B) by striking out “6” and inserting in lieu  
5                         thereof “11”; and  
6                         (C) by striking out “section 4(b)” and insert-  
7                         ing in lieu thereof “this Act”;  
8                     (3) in subsection (d)—  
9                         (A) by striking out “quarterly”; and  
10                         (B) by striking out “10” and inserting in lieu  
11                         thereof “14”; and  
12                     (4) in subsection (e)—  
13                         (A) by striking out “of Commerce”;  
14                         (B) by striking out “(c)” and inserting in lieu  
15                         thereof “(h)”;  
16                         (C) by striking out “articles, materials, and  
17                         supplies” and inserting in lieu thereof “goods and  
18                         technology”; and  
19                         (D) by striking out the last two sentences  
20                         and inserting in lieu thereof the following: “The  
21                         Secretary shall include, in the annual report re-  
22                         quired by section 14 of this Act, actions taken on  
23                         the basis of such review to simplify such rules and  
24                         regulations.”.

1       (g) Section 13 is amended by striking out "6" and in-  
2 serting in lieu thereof "11".

3           TECHNICAL AMENDMENTS TO OTHER ACTS

4       SEC. 122. (a) Section 38(e) of the Arms Export Control  
5 Act (22 U.S.C. 2778(e)) is amended by striking out "sections  
6 6 (c), (d), (e), and (f) and 7 (a) and (c) of the Export Adminis-  
7 tration Act of 1969" and inserting in lieu thereof "subsec-  
8 tions (c), (d), (e), and (f) of section 11 of the Export Adminis-  
9 tration Act of 1969, and by subsections (a) and (c) of section  
10 12 of such Act".

11       (b)(1) Section 103(c) of the Energy Policy and Conser-  
12 vation Act (42 U.S.C. 6212(c)) is amended by striking out  
13 "(A)" each place it appears and inserting in lieu thereof  
14 "(C)".

15       (2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3))  
16 is amended—

17           (A) by striking out "7" and inserting in lieu  
18 thereof "12"; and

19           (B) by striking out "(50 App. U.S.C. 2406)".

20       (c) Section 993(c)(2)(D) of the Internal Revenue Code of  
21 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

22           (1) by striking out "4(b)" and inserting in lieu  
23 thereof "7(a)";

24           (2) by striking out "(50 U.S.C. App. 2403(b))";  
25 and

1                   (3) by striking out "(A)" and inserting in lieu  
2                   thereof "(C)".

3                   SAVINGS PROVISIONS

4               SEC. 123. (a) All delegations, rules, regulations, orders,  
5               determinations, licenses, or other forms of administrative  
6               action which have been made, issued, conducted, or allowed  
7               to become effective under the Export Control Act of 1949 or  
8               the Export Administration Act of 1969 and which are in  
9               effect at the time this Act takes effect shall continue in effect  
10          according to their terms until modified, superseded, set aside,  
11          or revoked under this Act or the amendments made by this  
12          Act.

13          (b) This Act and the amendments made by this Act shall  
14          not apply to any administrative proceedings commenced or  
15          any application for a license made, under the Export Admin-  
16          istration Act of 1969, which is pending at the time this Act  
17          takes effect.

18          (c) This Act and the amendments made by this Act shall  
19          not affect any investigation, suit, action, or other judicial pro-  
20          ceeding commenced under the Export Administration Act of  
21          1969, or under section 552 of title 5, United States Code,  
22          which is pending at the time this Act takes effect; but such  
23          investigation, suit, action, or proceeding shall be continued as  
24          if this Act had not been enacted.

1                   EFFECTIVE DATE

2       SEC. 124. (a) Except as provided in subsection (b), this  
3 title and the amendments made by this title shall take effect  
4 on October 1, 1979.

5       (b) The amendments made by sections 107 and 108 of  
6 this Act shall take effect on the date of enactment of this Act.

7                   TITLE II—INTERNATIONAL INVESTMENT

8                   SURVEY ACT

9                   AUTHORIZATION OF APPROPRIATIONS

10      SEC. 201. (a) Section 9 of the International Investment  
11 Survey Act of 1976 (90 Stat. 2059) is amended to read as  
12 follows:

13      “SEC. 9. To carry out this Act, there are authorized to  
14 be appropriated \$4,400,000 for the fiscal year ending Sep-  
15 tember 30, 1980, and \$4,500,000 for the fiscal year ending  
16 September 30, 1981.”.

17      (b) The amendment made by subsection (a) shall take  
18 effect on October 1, 1979.

Union Calendar No. 122

96TH CONGRESS  
1ST SESSION  
**H. R. 4034**

[Report No. 96-200]

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**A BILL**

To provide for continuation of authority to regulate  
exports, and for other purposes.

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MAY 10, 1979

Referred to the Committee on Foreign Affairs

MAY 15, 1979

Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed